

REMARKS

This amendment is responsive to the Office Action mailed October 18, 2005. In the Office Action, the U.S. Patent and Trademark Office (hereinafter "the Office") rejected Claims 1-3, 8-10, 12-17, and 22-24 under 35 U.S.C. § 102(e) as being anticipated by Miller (U.S. Patent Publication No. 2002/0103822). Claims 4-5 and 18-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Pugliese et al. (U.S. Patent Publication No. 2001/0044751). Claims 6-7, 11, 20-21, and 25-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Carey et al. (U.S. Patent Publication No. 2002/0112035). Applicant has again carefully studied each of the cited references and further has studied the comments set forth in the Office Action, and submits that the pending claims are in fact patentable over the cited art.

The initial Office Action mailed March 21, 2005 did not state an interpretation of the term "user" as claimed. In regard to Claim 1, for example, the Office Action merely stated that the "shopping channel is provided to the user with advertisements (page 3/par. 0014) and as shown in Fig. 1, the enhancement objects may include sound and other effects for interfacing and controlling the audio content, see page 4/par. 0041 to page 5/par. 0044 for enhanced objects and auxiliary objects)." (Office Action dated March 21, 2005, page 2).

In the present Office Action, however, the Office asserted that "the user [in Miller] can be either at the content provider or at the client PC using a web browser to play back the audio content." Applicant respectfully disagrees. While the Office is charged with interpreting claim terms and applying those terms to the prior art, claim terms must be given their broadest reasonable interpretation consistent with the specification. See M.P.E.P. §2111, citing *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000). The Office has not done that in the present case.

As a matter of background, the present application relates to user customization of audio that accompanies content received by a user in an interactive video casting environment. For example, the user can elect to listen to jazz style music while viewing content on a shopping

channel accessed over interactive television. Alternatively or in addition, the user can be provided with an instructional voiceover that guides the user through a purchase experience on the shopping channel. The music selections or instructional voiceovers can be uploaded by the user to a server, and then played on the shopping channel (or other channel) when the channel is later viewed. The music or voiceovers can be selected from a menu, preset to play automatically, or can play in response to clicking an icon or other visual indicator.

In rejecting the claims, the Office has equated the term "user" as set forth in the claims with a "Content Provider" as taught by Miller. This interpretation is contrary to Miller's own disclosure and is unreasonable in view of the disclosure in the present application.

Miller discloses a method and system for customizing an object (e.g., an image used in an advertisement) for downloading via the Internet. As part of customizing the object, a Content Provider may upload additional graphics or text to an agent server that "enhances" the object. See Fig. 2C. The additional graphics or text may appear on the top of the base object (image) forming the advertisement, making the advertisement more eye-catching or informative. Once created, the enhanced object may be delivered to a user at a client terminal that is running a browser capable of presenting "enhanced objects." See Figs. 5A-5C. Notably, however, Miller does not disclose any ability of the user to upload audio content for later selection and playback with content. Rather, the user only receives content that was created by others (e.g., the Content Provider). At paragraph [0093] and indeed throughout the entire disclosure, Miller is very clear to distinguish between "users" and the "Content Provider." For the Office to now construe the user to be the same as the Content Provider is contrary to the disclosure in Miller.

The specification in the present application also describes users as being at client terminals (the client terminals being depicted, for example, as set top boxes in FIGURE 1). In connection with FIGURE 14, the present application at page 14 explains as follows:

Figure 7 illustrates a situation where the user can upload
audio content to the interactive television system 100 via a user interface

702. In one embodiment, the user connects to the interactive television system 100 via the Internet 102 to upload audio content. The user can access the Internet 102 using, a conventional modem connection, a DSL connection, an integrated services digital network (ISDN) connection using a telephone line, a cable modem, a wireless connection, or the like. The audio content can be formatted as MP3, WAV, musical instrument digital interface (MIDI), or the like. The user can upload audio content to the interactive television system 100 via the Internet 102 using a personal computer, laptop computer, a personal digital assistant, a client terminal and the like that can display the user interface 702. The interactive television system 100 stores the uploaded audio content at a user storage medium. A storage medium for the uploaded audio content can be located in a set top box 108, in another device coupled to the television set 304, in a head-end 106, in one or more servers in the systems shown in Figure 1, or in any suitable combination of these locations or other locations.

In one embodiment, the user can upload a human voice to the interactive television system 100 to be used as an instructional voiceover while the user is viewing the shopping channel 302. For example, a wife could speak into a microphone on a personal computer, a laptop, or the client terminal 108 and give instructions on how to complete a purchase. These instructions would be saved in a format as described earlier and then uploaded to the interactive television system 100. Later, when the husband goes to purchase an item, he can listen to his wife's voice giving him instructions on how to complete the sale. Another example, a mother could upload instructions to her child not to make a purchase in an amount exceeding the child's weekly allowance. When the

child proceeds to purchase an item, the mother's voice reminds the child not to spend too much money.

In neither Miller nor the present application is a "user" equivalent to a "Content Provider". Once a reasonable interpretation of the term "user" is considered in view of Miller and the present application, it becomes clear that Miller does not anticipate the claims, nor does a combination of Miller with Pugliese and/or Carey render the claims obvious.

However, to further distinguish the claimed "user" from Miller's "Content Provider," applicant submits herewith amended claims for consideration by the Examiner. Applicant acknowledges that claim amendments after final are not entered as a matter of right, but submits that the amendments are proper for entry. The claim amendments do not depart from the subject matter already searched. Rather, the amendments merely make explicit that which was already in the claims when properly interpreted, that is, that the term "user" does not encompass the "Content Provider" described by Miller.

Reconsideration and allowance of the application in view of the amended claims is requested. The following remarks provide additional comments relative to the claims above.

Claim 1

Claim 1 was rejected as being anticipated by Miller. For the reasons discussed above, applicant respectfully disagrees. A claim rejection based on anticipation requires that the cited reference disclose each and every element of the claim at issue. Miller does not disclose all of the subject matter recited in amended Claim 1.

Applicant has reviewed the Miller reference and finds no evidence of a method that includes "providing a user at a client terminal with a selection of audio content to accompany a shopping channel on an interactive video casting system," particularly where "the user [is] an end consumer of advertising on the shopping channel." Moreover, as claimed, "the audio content to select from includes audio content uploaded to the interactive video casting system by the user and stored therein."

At best, Miller discloses a method and system for content providers to use an agent server in order to create enhanced objects for download to a client machine. See, *e.g.*, the Abstract in Miller and paragraph [0038]. The portions of Miller cited in the Office Action (including Fig. 2C and 3A, and paragraphs [0050]-[0051] and [0059]-[0062]) do not disclose each and every element recited in Claim 1, nor does the remaining disclosure of Miller anticipate Claim 1. The "Content Provider" in Miller is clearly distinguished from and not equivalent to the "user" as claimed in Claim 1. For at least these reasons, Claim 1 is patentable over Miller and should be allowed.

Claims 2-11

Claims 2-11, which are dependent on Claim 1, are allowable for their dependence on allowable Claim 1, as well as for the additional subject matter recited therein. The citation of Pugliese with respect to Claims 4-5 and Carey with respect to Claims 6-7 and 11, does not cure the deficiency of disclosure in the Miller reference, nor does applicant agree that Pugliese and Carey disclose what is alleged in the Office Action. As explained in applicant's prior response, Carey's alleged disclosure of "interactive television" is limited to a simple list of technologies that can be used to allow people to receive and communicate information. See, *e.g.*, paragraph [0006] in Carey. For at least these reasons, Claims 2-11 are also believed patentable over the prior art and therefore should be allowed.

Claim 12

As with Claim 1, the Office contends that Miller discloses each and every element of Claim 12. Applicant respectfully disagrees. Upon review of Miller, applicant finds no teaching or suggestion of a method in which a user "at a client terminal" is provided "with a selection of audio enhancements to accompany content on an interactive video casting system, the user being one of a plurality of end consumers viewing the content and the audio enhancements to select from including audio enhancements uploaded to the interactive video casting system by the user and stored therein," as recited in Claim 12.

Miller is directed to a method and system in which a Content Provider creates enhanced objects for download via an agent server to a user at a client machine. The disclosure in Miller does not teach or suggest the above-noted elements recited in Claim 12. Accordingly, applicant submits that Claim 12 is patentable over Miller and should be allowed.

Claims 13-24

Claims 13-24, which are dependent on Claim 12, are allowable for their dependence on allowable Claim 12, as well as for the additional subject matter recited therein. Applicant has reviewed the Miller reference, the Pugliese reference (with respect to Claims 18 and 19) and the Carey reference (with respect to Claims 20-21) and does not find disclosure that describes the subject matter set forth in Claims 13-24. Claims 13-24 should therefore be allowed.

Claims 25-27

Independent Claim 25 is directed to an apparatus that includes a network interface, a television interface, a storage medium, and a processor combined in a manner that is not taught or suggested by the combination of Miller and Carey, as alleged in the Office Action. In the Office Action, the Office refers to its earlier discussion of Claim 1 and as shown herein, Miller is deficient as to the subject matter of Claim 1. Furthermore, the Carey reference does not overcome the deficiencies of Miller. For example, with respect to Claim 25, applicant finds no evidence that the combination of Miller and Carey suggest "a television interface coupled to the network interface to allow user selection of audio content to accompany content received from an interactive television network, the user being one of a plurality of end consumers viewing the interactive television content." For at least these reasons, Claim 25 is patentable over the prior art and should be allowed.

Claims 26 and 27, which depend from allowable Claim 25, should also be allowed. For example, with respect to Claim 27, applicant finds no disclosure in either Miller or Carey suggesting "the network interface is capable to retrieve at least some audio information related to the preferences from the interactive television network via use of triggers embedded in the

content received from the interactive television network." In the present Office Action, the Office did not address the elements of Claim 27. Instead, the Office rejected the claim *en masse* with Claims 26-33. Absent a showing that the claimed invention is taught by Miller or Carey, or any other prior art, the rejection of Claims 25-27 should be withdrawn. Reconsideration and allowance of Claims 25-27 is requested.

Claims 28-30

Claims 26-33 were rejected "for the reason given in the scope of earlier claims," referencing the disclosures of Miller and Carey. Specific to Claims 28-30, applicant disagrees that the claimed invention is described by Miller and Carey.

In part, Claim 28 recites "a server capable of being coupled to the television network to provide access to audio enhancements, the server including a storage medium to store the audio enhancements, including audio enhancements uploaded to the storage medium by a user at the client terminal, wherein the server is further capable to provide the audio enhancements to the user at the client terminal based on user selection of at least one of the audio enhancements made from the content provided to the client terminal." Applicant respectfully submits that a system including a server as claimed in Claim 28 is not found, nor is it suggested, in the disclosures of Miller and Carey.

Furthermore, Claims 29 and 30 recite additional subject matter that is patentable over Miller and Carey. For example, Claim 29 further recites that the content includes "triggers embedded in the content provided to the client terminal and usable to retrieve the at least one audio enhancement in response to user selection of that audio enhancement." The Examiner is invited to show where the elements of Claims 28-30 are shown in the prior art. Absent a teaching or suggestion of the claimed invention in the Miller and Carey references, the rejection of Claims 28-30 should be withdrawn.

Claims 31-34

Lastly, Claim 31 is directed to a channel for an interactive video casting system. In part, the channel includes "a selection of audio enhancements to accompany the visual content, including a selection of audio enhancements that can be uploaded by a user at a client terminal and provided along with the visual content, the user being an end consumer of the content provided from the interactive video casting system." These elements of Claim 31, and also the elements recited in Claims 32-34, are not disclosed or suggested in the Miller and Carey references, either alone or in combination. Accordingly, Claims 32-34 are patentable over the prior art and should be allowed.

Amendments to the Claims

While applicant has proposed amendments to the claims as noted above, applicant does not believe these claim amendments are necessary for patentability. The amendments are meant to clarify the use of the term "user" and not to relinquish subject matter encompassed by the original claims or their equivalents.

CONCLUSION

Applicant submits that Claims 1-34 are allowable over the Miller, Pugliese, and Carey references, especially as amended above. Entry of the amendments and allowance of the application is respectfully requested.

Respectfully submitted,

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Date:

January 18, 2006

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